

The Court agrees that an appeal bond should be required in this case, particularly because of Neuman's refusal to pay Court-ordered settlement amounts and sanctions awards up to this point. However, the Court does not agree with Plaintiff's assertion that the term "costs" as used in Rule 7 includes attorney fees in this case.²

Accordingly, Plaintiff's motion is **GRANTED**, but only to the extent that it seeks an appeal bond for administrative costs in the amount of \$5000.³ Neuman is hereby **ORDERED** to post bond in the amount of \$5000 within ten (10) days of the date of this Order.

IT IS SO ORDERED.

s/Kathleen M. O'Malley
KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE

Dated: February 27, 2007

² In *In re Cardizem CD Antitrust Litigation*, 391 F.3d 812, 816-17 (6th Cir. 2004), the Sixth Circuit held that an amount imposed in an appeal bond under Rule 7 can include attorney fees when such fees are "properly awardable under the relevant substantive statute or other authority." *Id.* (quoting *Marek v. Chesny*, 473 U.S. 1, 9 (1985)). In the present case, Plaintiff has not cited any authority that would permit her to recover attorney fees, and the Court thinks it is clear that none exists. Indeed, the Court specifically removed a fee-shifting clause from the Settlement and Mutual Release Agreement that provided for fees incurred to enforce or defend rights under that agreement. *See* Doc. 47, Ex. A at p. 5. Arguably, the order from which Neuman takes her present appeal is an order that resulted from Plaintiff's attempt to enforce her rights under the Settlement Agreement.

³ Although the Court is aware that the Sixth Circuit has already dismissed Neuman's appeal for lack of jurisdiction, Neuman's counsel has informed the Court that he intends to petition the Sixth Circuit for a rehearing, and, therefore, that he does not believe Plaintiff's motion is moot. The Court agrees that Plaintiff's motion is not moot and that a bond is still appropriate for the costs already incurred and those that will be incurred as Neuman lengthens the appeals process.